

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ORIGINAL

EMORY STEVE BROWN,)
vs. Plaintiff,) CIVIL ACTION
vs.)
CLAIMS MANAGEMENT, INC.,) FILE NO. 3:05-CV-0681-WKW
Defendant.)

Oral deposition of AMY MILLER, Witness, called
by the Defendant, taken before Betsy J. Peterson,
Registered Professional Reporter, taken at Alexander
City Orthopaedics, 1120 Airport Drive, Alexander
City, Alabama, on the 11th day of August, 2006,
commencing at 3:20 p.m. CST.

APPEARANCES

On behalf of the Plaintiff:

MR. CLAY TINNEY
Law Office of John Tinney
739 Main Street
Post Office Box 1430
Roanoke, Alabama 36274

On behalf of the Defendant:

MR. ARCHIE GRUBB
Carlock, Copeland, Semler & Stair, LLP
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STIPULATIONS

IT IS STIPULATED AND AGREED by and between
counsel appearing for the respective parties that:

1) The deposition of AMY MILLER, Witness, shall be taken by the Defendant, for all purposes under the Federal Rules of Civil Procedure, before Betsy J. Peterson, Registered Professional Reporter, at the office of Alexander City Orthopaedics, 1120 Airport Drive, Alexander City, Alabama, commencing at 4:20 p.m. CST on the 11th day of August, 2006;

2) ALL FORMALITIES with reference to notice of taking, notice of time and place of taking, and all other matters precedent to the taking of depositions are WAIVED;

3) THAT THE READING of this deposition to, or by, the witness and the signing thereof by the witness are hereby expressly WAIVED;

4) ALL OBJECTIONS, EXCEPT as to the form of the question and responsiveness of the answer, are RESERVED to the time of the hearing of the case; and

5) ALL FORMALITIES with reference to the filing of depositions, including notice of filing, et cetera, are WAIVED.

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1 MR. GRUBB: Okay. This is the deposition
2 of Amy Miller. And we'll have the usual
3 stipulations. We'll reserve all objections
4 except as to the form of the question and
5 responsiveness of the answer.

6 Does that sound good?

7 MR. TINNEY: Sure.

8 THEREUPON,

AMY MILLER

10 was called as a witness, and having been first duly
11 sworn, was examined and testified as follows:

12 EXAMINATION

13 BY MR. GRUBB:

14 Q. Okay. Ms. Miller, have you given a
15 deposition before?

16 A. No.

17 Q. Okay. Well, it's just a conversation
18 between me and you. And I'll ask some questions
19 that won't be any trick questions.

20 Any question that you don't understand, please
21 just tell me you don't understand. I'll try to make
22 it as simple as possible. I don't want to try to
23 trip you up in any way. I'll try to make them
24 straight-forward, although I will unintentionally
25 ask some bad questions at times, so I'll try to

1 straighten those out.

2 The court reporter is taking everything down,
3 so speak clearly where she can hear you and try to
4 eliminate uh-huhs and huh-uhs and things like that
5 and say yes or no. Make sure to say yes or no
6 rather than nodding your head, that type of thing.

7 And if you need to take a break at any time
8 just let me know, but hopefully we'll go through
9 this fairly quickly.

10 First I'm going to ask some background
11 questions, some of these for the purpose if the case
12 goes to trial and we had to do jury selection, so
13 we'll know -- you know, make sure you don't have any
14 relatives on the jury or something like that.

15 Please state your full name.

16 A. Amy Carter Miller.

17 Q. Okay. And your present address?

18 A. 11512 Highway 280, Jackson's Gap.

19 Q. And Jackson's Gap is in Alabama?

20 A. Right.

21 Q. And your birthday?

22 A. August 18, 1976.

23 Q. Okay. Are you married?

24 A. No.

25 Q. Okay. Have you been married?

1 A. Yes.

2 Q. Okay. What's your ex-husband's name?

3 A. Robert Miller, Jr.

4 Q. Okay. Is that your only ex-husband?

5 A. Yes.

6 Q. Okay. What were the dates of that
7 marriage, approximately?

8 A. June 1997. And I'm not sure of the divorce
9 date.

10 Q. Okay. Do you have any children?

11 A. One.

12 Q. Okay. Is that child under the age of 18, I
13 take it?

14 A. Yes, he is.

15 Q. Okay. Are your parents still living?

16 A. Yes.

17 Q. What are their names, please?

18 A. Kenny and Laurie Carter.

19 Q. And where do they live?

20 A. Alexander City, Alabama.

21 Q. How about, are your grandparents still
22 living?

23 A. Yes.

24 Q. And what are their names?

25 A. Jewel and Wilton Carter and Margie Caylor.

1 Q. Okay. And the Carters, where do they live?
2 A. Jackson's Gap, Alabama.
3 Q. And Ms. Caylor?
4 A. Tallahassee, Florida.
5 Q. Okay. And then do you have any brothers or
6 sisters?
7 A. One brother.
8 Q. And what's his name?
9 A. Daniel Carter.
10 Q. Okay. And where does he live?
11 A. Alexander City, Alabama.
12 Q. Is he married?
13 A. No.
14 Q. Okay. And how about aunts and uncles?
15 A. Carol Cooper is in Prattville, Alabama; and
16 Steve Carter, Auburn, Alabama; and Rosemary Caylor
17 in Childersburg, Alabama.
18 Q. Okay. All right. Do you attend a church?
19 A. No.
20 Q. Okay. Do you belong to any civic clubs or
21 organizations or anything?
22 A. No.
23 Q. Okay. And where does your child attend
24 school?
25 A. Stevens Elementary.

1 Q. Okay. Thank you.

2 When did you start work at Alexander City
3 Orthopaedics?

4 A. June of 2000.

5 Q. Okay. Did you work anywhere in the medical
6 profession prior to that?

7 A. Temple Medical Clinic.

8 Q. Okay. And where is that located?

9 A. Here in this building.

10 Q. I thought I recognized that.

11 Approximately what dates did you work there at
12 Temple Medical Clinic? Just the month and the
13 year.

14 A. Maybe November of '98 to November of '99.

15 Q. Okay. Any other prior medical experience?

16 A. Russell Medical Center. I worked in the
17 registration department.

18 Q. Okay. About what day -- what period was
19 that?

20 A. 1994 until 1998.

21 Q. Okay. Any other medical experience?

22 A. That's all.

23 Q. Do you have any professional medical
24 training or education?

25 A. No, no. Just a home program.

1 Q. Okay. Who was that through?

2 A. Professional Career Development Institute.

3 Q. Did you complete that program?

4 A. I did.

5 Q. And what was --

6 A. It's for medical assistant.

7 Q. Okay. About when did you complete that?

8 A. 1997 maybe.

9 Q. Okay. Are you a high school graduate?

10 A. Yes.

11 Q. What high school did you go to?

12 A. Benjamin Russell High School.

13 Q. What year did you graduate?

14 A. 1994.

15 Q. Have you had any education after high

16 school other than the home program?

17 A. Central Alabama Community College, from '94

18 to '96, and then from 2005 to present.

19 Q. Okay. So you're continuing with that.

20 A. Right.

21 Q. Okay. Great.

22 Dr. Howorth, is he the only doctor at Alexander

23 City Orthopaedics?

24 A. Yes.

25 Q. Who else is on the staff?

1 A. There's the receptionist, Mary; the office
2 manager, Lynn; and his assistant and x-ray tech,
3 Jonathan.

4 Q. And so with you, that would make five on
5 the staff, and then -- I guess five all together; is
6 that correct?

7 A. Including --

8 Q. Including Dr. Howorth.

9 What is your title?

10 A. I'm his clinic assistant.

11 Q. Okay. Has that been your title throughout
12 the time that you've been employed here?

13 A. I was receptionist for the first year.

14 Q. Okay. So that would be about 2000 to 2001;
15 is that right?

16 A. Right.

17 Q. And since then you've been clinic
18 assistant?

19 A. Right.

20 Q. Tell me a little bit about your duties as
21 clinic assistant.

22 A. Check the patient out with next
23 appointment, write the physical therapy orders. I
24 do any insurance verification or precertification
25 for surgeries.

1 Q. Okay. And were you doing the insurance
2 verification and precertification back in 2001 when
3 you began --

4 A. Yes.

5 Q. -- this job?

6 And you have continued to do that up until the
7 present time?

8 A. Yes.

9 Q. Okay. Now, as you know, the reason we're
10 here today -- and we'll get more into it in just a
11 minute -- is to talk about some of the treatment --
12 or not necessarily the treatment, but your
13 interaction with a patient by the name of Emory
14 Brown who was treated here back in October 2004, and
15 I believe he's still a patient.

16 Was there anyone else on the staff from October
17 2004 to the present who is no longer on the staff?

18 A. Maybe the receptionist.

19 Q. Have y'all had a different receptionist in
20 the past before -- I guess, is it Mary now?

21 A. Yes.

22 Q. Who was the previous receptionist?

23 A. To be honest, I don't remember.

24 Q. Okay.

25 A. There's been a few.

1 Q. Okay. Is the -- are the duties of the
2 receptionist mainly just answering the telephone and
3 greeting people at the window out there?

4 A. Yes.

5 Q. Does the receptionist do anything as far as
6 insurance verification or precertification of
7 surgery?

8 A. No.

9 Q. Does anyone else in the office do any of
10 that other than yourself?

11 A. No.

12 Q. Okay. What's your normal work schedule?

13 A. Tuesday, Wednesday, and Friday is from 8 to
14 4:30. Monday and Thursday is from 10 until 6:30.

15 Q. Has that been pretty much a normal schedule
16 during the period that you've been employed here?

17 A. We used to go to Sylacauga. We had an
18 office in Sylacauga.

19 Q. When was that? Do you remember?

20 A. We moved back here in December of 2004
21 maybe.

22 Q. Okay. So what day -- would you go on a
23 certain day to Sylacauga?

24 A. Tuesday and Friday.

25 Q. Were you doing the same things as you would

1 do here as far as seeing patients and so forth?

2 A. Yes.

3 Q. Tell me about what you do just with a
4 normal patient as far as precertifying surgery.

5 A. Depending on their insurance, I can either
6 go on-line or call the insurance company and get
7 their surgical benefits. For the precert, I just
8 follow the instructions.

9 Q. Okay. Do you have to ever send faxes to
10 the insurance company, that type of thing?

11 A. Yes.

12 Q. Surgical request forms, that type of thing?

13 A. Yes.

14 Q. Do you have any procedures that you follow
15 as far as documenting when you send a fax or when
16 you receive a fax?

17 A. I try to write it on the precert form.

18 Q. Okay. Have you done pretty good about
19 that?

20 A. I have tried to. It's hard to write every
21 conversation every time they call or I call them.

22 Q. Just as far as the faxes.

23 A. Uh-huh.

24 Q. Okay.

25 A. I do.

1 Q. Okay. You document those by writing on the
2 form?

3 A. Yes.

4 Q. It was received.

5 Okay. And then in regard to telephone calls
6 with the insurance carrier, do you document those?

7 A. I try to.

8 Q. Okay. I think you said that's a little bit
9 harder to do.

10 A. Right. If there's more than one
11 conversation a day, it's hard to stop and write all
12 that down.

13 Q. Yeah. Now, what do you do -- I know you
14 were just down there. Y'all were having a clinic,
15 and you were busy with that. What type of thing
16 normally keeps you busy in that situation as
17 patients are coming in and so forth?

18 A. Scheduling the patient or on the phone with
19 the referral for them to MRI, physical therapy,
20 surgery.

21 Q. So you are seeing a good number of patients
22 on a regular day?

23 A. We do.

24 Q. Do you have an estimate of how many
25 patients come through the office on an average day?

1 A. Usually 30 to 35.

2 Q. Okay. Then it's my understanding that the
3 doctor does surgery about two days a week; is that
4 right?

5 A. Yes.

6 Q. And what days are those?

7 A. Monday and Thursday morning.

8 Q. Okay. On average about how many surgeries
9 will he do on one of those days?

10 A. Four.

11 Q. Do you recall a patient by the name of
12 Emory Steve Brown?

13 A. I recall the name, not the face.

14 Q. Okay. So you wouldn't recognize him if he
15 came in?

16 A. No.

17 Q. Okay. Do you recall the name more because
18 you've been dealing with it with requests for
19 medical records --

20 A. Probably.

21 Q. -- than just if he were a regular patient
22 that didn't have a lawsuit going on?

23 A. Probably.

24 Q. Yeah. My records that I received from your
25 office show his treatment as beginning on October

1 27, 2004. Does that sound about right to you?

2 A. I guess.

3 Q. Okay. You don't really know?

4 A. I don't know, no.

5 Q. Okay. And that's fair enough. If you
6 don't know, just say you don't know.

7 A. Yeah, I don't know.

8 Q. Do you recall dealing with Claims
9 Management Incorporated, or CMI, in regard to his
10 workers' compensation benefits, the approval of his
11 surgery and so forth?

12 A. Not necessarily him individually. We dealt
13 with them a lot.

14 Q. Okay. Do you have any type of estimate of
15 how many different patients you have had that have
16 been referred by Claims Management?

17 A. I would say 10 to 15.

18 Q. Is that all since this October 2004 time
19 period?

20 A. Yes.

21 Q. Was he one of the first ones that y'all had
22 dealt with that had been referred by Claims
23 Management?

24 A. I don't remember.

25 Q. Okay. Do you recall who your primary

1 contact person was at Claims Management in regard to
2 Emory Brown?

3 A. Not necessarily him, but Victoria.

4 Q. Would that be Victoria Greenspan?

5 A. Yes.

6 Q. If I told you that she was the primary
7 contact person on this case, I mean, would you
8 think, yeah, that's probably right?

9 A. Right. She was the main one that I spoke
10 to on all of them.

11 Q. Okay. So you do you recall anyone else
12 that you spoke to at CMI in regard to these cases?

13 A. No.

14 Q. So it's fair to say, as far as you can
15 remember, Victoria Greenspan is the person you dealt
16 with at Claims Management?

17 A. I don't recall, but I would suppose, yes.

18 Q. Do you recall any interactions at all with
19 Emory Brown that you may have had?

20 A. No.

21 Q. Okay. No telephone calls?

22 A. I don't recall any.

23 Q. Okay. And no face-to-face contact?

24 A. I'm sure I did, but...

25 Q. You just don't remember?

1 A. I don't know; right.

2 Q. Okay. Do you know the telephone number at
3 this office?

4 A. Dr. Howorth's office?

5 Q. Uh-huh.

6 A. (256)234-0989.

7 Q. Are there any alternate numbers?

8 A. There's a second line and a fax line.

9 Q. Do you know the number of that second line?

10 A. No.

11 Q. If I said (256)234-0920 --

12 A. That sound correct.

13 Q. -- does that sound -- okay.

14 A. And then what is the fax number?

15 A. (256)234-3114.

16 Q. Okay. And are there any alternate fax
17 numbers?

18 A. No.

19 Q. To your knowledge, would there be any
20 documents that would be faxed to CMI, or Claims
21 Management, from a different fax number?

22 A. No.

23 Q. Okay. And would you ever have occasion to
24 receive any faxes at a different fax number?

25 A. No.

1 Q. Okay.

2 I'm sorry, if y'all would bear with me just a
3 second.

4 Okay. I'm going to show you what I'm going to
5 mark as Defendant's Exhibit No. 1.

6 (Defendant's Exhibit 1 was marked for
7 identification.)

8 MR. GRUBB: And I'm going to show it to
9 Mr. Tinney and let him look at it real quick.

10 (Document handed to counsel.)

11 Q. Can you tell me what this exhibit is?

12 A. It's our precert information sheet that we
13 fill out for surgical approval.

14 Q. Okay. And this sheet is labeled with
15 Mr. Emory Brown's name; correct?

16 A. Correct.

17 Q. Okay. Is that your handwriting on the
18 document?

19 A. Yes.

20 Q. Okay. And is that your signature on there?

21 A. Yes.

22 Q. Is this a form that you fill out as part of
23 your normal course of business?

24 A. Yes.

25 Q. And this is something that you've been